

NEW YORK STATE SUPREME COURT  
ORANGE COUNTY

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KEVIN DOW,

Index No.: \_\_\_\_\_/\_\_\_\_

**COMPLAINT**

Plaintiff,

-against-

SOCIETY OF OUR LADY OF MOUNT CARMEL, INC.;  
CARMELITE FRIARS OF THE NORTH AMERICAN  
PROVINCE OF ST. ELIAS,

**Child Victims Act Proceeding**  
**22 NYCRR 202.72**

Defendants.  
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Plaintiff, by and through his attorneys, James R. Marsh, Jennifer Freeman, and the Marsh Law Firm PLLC, and Anelga Doumanian and Pfau Cochran Vertetis Amala PLLC, respectfully alleges the following:

**I. INTRODUCTION**

1. Defendants Society of Our Lady of Mount Carmel, Inc. and the Carmelite Friars of the North American Province of St. Elias (collectively “the Carmelites”) operated, staffed, and managed numerous parishes and schools in New York, including Holy Cross Church in South Centerville, New York (“Holy Cross”).

2. Father George Boxelaar, O.Carm. (“Father Boxelaar”) was ordained as a priest of the Carmelite Order in approximately 1954. One of his first assignments was at Our Lady of Mt. Carmel, where he served for nearly three decades in various capacities, including as a priest at Holy Cross.

3. By at least 1973, the Carmelites knew that Father Boxelaar was sexually abusing children in his custody and care. Despite their knowledge that Father Boxelaar posed a danger to children, the Carmelites failed to take reasonable steps to protect children from being sexually abused by him, and instead, actively concealed his abuse of children.

4. Because of their wrongful conduct and active concealment of Father Boxelaar's abuse of children, Father Boxelaar continued to abuse children at the parishes where he was assigned throughout the 1970s and 1980s. Despite multiple complaints during this time period, the Carmelites continued to give him access to children and he continued to abuse them.

5. Based on the Carmelites's wrongful conduct, a reasonable person could and would conclude that it knowingly and recklessly disregarded the abuse of children and chose to protect its reputation and wealth over those who deserved protection. The result is not surprising: during his tenure, Father Boxelaar abused no less than 30 children – and likely more.

6. Kevin Dow – the plaintiff in this lawsuit – is one of those children who were sexually abused because of the Carmelites' wrongful conduct.

## **II. PROCEEDING IN ACCORDANCE WITH CPLR 214-G AND 22 NYCRR 202.72**

7. This complaint is filed pursuant to the Child Victims Act (CVA) 2019 Sess. Law News of N.Y. Ch. 11 (S. 2440), CPLR 214-G, and 22 NYCRR 202.72. The CVA opened a historic one-year one-time window for victims and survivors of childhood sexual abuse in the State of New York to pursue lapsed claims. Prior to the passage of the CVA, plaintiff's claim was time-barred the day he turned 22 years old. The enactment of the CVA allows plaintiff, for the first time in his life, to pursue restorative justice in New York State.

## **III. PARTIES**

8. Plaintiff Kevin Dow is an adult male who currently resides in Tampa, Florida.

9. Upon information and belief, the Society of Our Lady of Mount Carmel, Inc. is currently a not-for-profit religious corporation organized under New York law with its principal office in Middletown, Orange County.

10. Upon information and belief, at all relevant times the Society of Our Lady of Mount Carmel, Inc. conducted business as the “Society of Our Lady of Mount Carmel, Inc.,” “Society of Mount Carmel,” or the “Carmelites.”

11. Upon information and belief, at all relevant times the Society of Our Lady of Mount Carmel, Inc. employed priests and others who served various Catholic institutions and families, including plaintiff Kevin Dow and his family.

12. Upon information and belief, Father George Boxelaar (“Father Boxelaar”) was a priest employed by the Society of Our Lady of Mount Carmel, Inc. to serve Catholic families, including plaintiff Kevin Dow and his family. During the time Father Boxelaar was employed by the Society of Our Lady of Mount Carmel, Inc., he used his position as a priest to groom and to sexually abuse plaintiff Kevin Dow.

13. To the extent that the Society of Our Lady of Mount Carmel, Inc. was a different entity, corporation, or organization during the period of time during which Father Boxelaar used his position as a priest to sexually abuse plaintiff Kevin Dow, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

14. To the extent the Society of Our Lady of Mount Carmel, Inc. is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Boxelaar used his position as a priest to sexually abuse plaintiff Kevin Dow, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

15. All such Society of Our Lady of Mount Carmel, Inc.-related entities, corporations, or organizations are collectively referred to herein as the “Carmelites.”

16. Upon information and belief, at all relevant times, defendant the Carmelite Friars of the North American Province of St. Elias was the regional province of the Carmelites and was wholly owned, operated, and controlled by the Carmelites.

17. Upon information and belief, at all relevant times, Father Boxelaar was a member and ordained priest of the Carmelite Friars of the North American Province of St. Elias

18. Upon information and belief, at all relevant times the Carmelite Friars of the North American Province of St. Elias conducted business as “Carmelite Friars of the North American Province of St. Elias,” “Carmelite Friars,” “North American Carmelite Province,” “Province of St. Elias,” or “the Carmelites.”

19. Holy Cross is a parish with a church located in South Centerville, New York.

20. Upon information and belief, Father George Boxelaar was a priest employed by the Carmelite Friars of the North American Province of St. Elias to serve Catholic families at Holy Cross, including plaintiff Kevin Dow and his family. During the time Father George Boxelaar was a member and ordained priest with the Carmelite Friars of the North American Province of St. Elias, he was assigned to Holy Cross and he used his position as a priest to groom and to sexually abuse plaintiff Kevin Dow.

21. To the extent that the Carmelite Friars of the North American Province of St. Elias was a different entity, corporation, or organization during the period of time in which Father Boxelaar used his position as a priest to sexually abuse Kevin, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

22. To the extent the Carmelite Friars of the North American Province of St. Elias is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Boxelaar used his position as a priest to sexually abuse Kevin, such

predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

23. All such Carmelite Friars of the North American Province of St. Elias-related entities, corporations, or organizations are collectively referred to herein as “the Carmelites.”

#### **IV. VENUE**

24. Venue is proper because the Society of Our Lady of Mount Carmel, Inc. is a domestic corporation authorized to transact business in New York with its principal office located in Orange County.

25. Venue is proper because the Carmelite Friars of the North American Province of St. Elias is a domestic entity authorized to transact business in New York with its principal office located in Orange County.

26. Venue is proper because Orange is the county in which a substantial part of the events or omissions giving rise to plaintiff’s claim occurred.

#### **V. STATEMENT OF FACTS**

27. Upon information and belief, at all relevant times the Carmelites, their agents, servants, and employees staffed, managed, maintained, operated, and controlled Holy Cross and held out to the public their agents, servants, and employees as those who staffed, managed, maintained, operated, and controlled Holy Cross.

28. Upon information and belief, at all relevant times the Carmelites employed priests and others who served Catholic families at Holy Cross, including plaintiff Kevin Dow and his family.

29. Upon information and belief, at all relevant times the Carmelites were responsible for the hiring and staffing, and did the hiring and staffing, at Holy Cross.

30. Upon information and belief, at all relevant times the Carmelites were responsible for and did the recruitment and staffing of volunteers at Holy Cross.

31. Upon information and belief, at all relevant times the Carmelites materially benefited from the operation of Holy Cross, including the services of Father Boxelaar and the services of those who managed and supervised Father Boxelaar.

32. Upon information and belief, at all relevant times Father Boxelaar was a Carmelite priest.

33. Upon information and belief, at all relevant times Father Boxelaar was on the staff of, acted as an agent of, and served as an employee of the Carmelites.

34. Upon information and belief, at all relevant times Father Boxelaar was acting in the course and scope of his employment with the Carmelites.

35. Upon information and belief, at all relevant times Father Boxelaar was employed by the Carmelites and assigned to Holy Cross.

36. When plaintiff Kevin Dow was a minor, he and his parents were members of Holy Cross.

37. At all relevant times, the Carmelites, their agents, servants, and employees, held Father Boxelaar out to the public, to Kevin, and to his parents, as their agent and employee.

38. At all relevant times, the Carmelites, their agents, servants, and employees, held Father Boxelaar out to the public, to Kevin, and to his parents, as having been vetted, screened, and approved by those defendants.

39. At all relevant times, Kevin and his parents reasonably relied upon the acts and representations of the Carmelites, their agents, servants, and employees, and reasonably believed

that Father Boxelaar was an agent or employee who was vetted, screened, and approved by the Carmelites.

40. At all relevant times, Kevin and his parents trusted Father Boxelaar because the Carmelites held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of Kevin.

41. At all relevant times, Kevin and his parents believed that the Carmelites would exercise such care as would a parent of ordinary prudence in comparable circumstances when the Carmelites assumed supervision, care, custody, and control of Kevin.

42. When Kevin was a minor, Father Boxelaar sexually abused him.

43. Kevin was sexually abused by Father Boxelaar from approximately age 7 to 16 years old.

44. Based on the representations of the Carmelites that Father Boxelaar was safe and trustworthy, Kevin and his parents allowed Kevin to be under the supervision of, and in the care, custody, and control of, the Carmelites, including during the times when Kevin was sexually abused by Father Boxelaar.

45. Based on the representations of the Carmelites that Father Boxelaar was safe and trustworthy, Kevin and his parents allowed Kevin to be under the supervision of, and in the care, custody, and control of, Father Boxelaar, including during the times when Kevin was sexually abused by Father Boxelaar.

46. Neither Kevin nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Carmelites or Father Boxelaar if the Carmelites had disclosed to Kevin or his parents that Father Boxelaar was not safe and was not trustworthy, and that he in fact posed a danger to Kevin in that Father Boxelaar was likely to sexually abuse Kevin.

47. No parent of ordinary prudence in comparable circumstances would have allowed Kevin to be under the supervision of, or in the care, custody, or control of, the Carmelites or Father Boxelaar if the Carmelites had disclosed to Kevin or his parents that Father Boxelaar was not safe and was not trustworthy, and that he in fact posed a danger to Kevin in that Father Boxelaar was likely to sexually abuse him.

48. From on or about 1974 through on or about 1983, Father Boxelaar exploited the trust and authority vested in him by the Carmelites by grooming Kevin to gain his trust and to obtain control over him as part of Father Boxelaar's plan to sexually molest and abuse Kevin and other children.

49. Father Boxelaar used his position of trust and authority as a priest of the Carmelites to groom Kevin and to sexually abuse him multiple times, including when Kevin was under the supervision of, and in the care, custody, or control of, the Carmelites and Father Boxelaar.

50. The sexual abuse of Kevin by Father Boxelaar occurred at Holy Cross, including at the Holy Cross and Mount Carmel Priory, where Father Boxelaar lived while he was providing services to the Carmelites.

51. Upon information and belief, the Carmelites staffed, managed, maintained, operated, and controlled Holy Cross and owned Mount Carmel Priory, and they allowed Father Boxelaar to live there as a benefit of his employment with the Carmelites.

52. At certain times, Father Boxelaar's sexual abuse of Kevin occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Carmelites, including when Kevin would be with Father Boxelaar as a result of serving as an altar boy for Holy Cross.

53. Upon information and belief, prior to the times mentioned herein, Father Boxelaar was a known sexual abuser of children.



54. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Father Boxelaar was a known sexual abuser of children.

55. Upon information and belief, at all relevant times, it was reasonably foreseeable to defendants, their agents, servants, and employees that Father Boxelaar's sexual abuse of children would likely result in injury to others, including the sexual abuse of Kevin and other children by Father Boxelaar.

56. Upon information and belief, at certain times between 1974 and 1983, defendants, their agents, servants, and employees knew or should have known that Father Boxelaar was sexually abusing Kevin and other children at Holy Cross and elsewhere.

57. Upon information and belief, defendants, their agents, servants, and employees knew or should have known that the sexual abuse by Father Boxelaar of Kevin was ongoing.

58. Upon information and belief, the Carmelites, their agents, servants, and employees, knew or should have known that Father Boxelaar was likely to abuse children, including Kevin, because other parishioners had complained about Father Boxelaar's inappropriate sexual behavior before Father Boxelaar abused Kevin.

59. Upon information and belief, the Carmelites, their agents, servants, and employees, knew or should have known before and during Father Boxelaar's sexual abuse of Kevin that priests and other persons serving the Carmelites had used their positions to groom and to sexually abuse children.

60. Upon information and belief, the Carmelites, their agents, servants, and employees, knew or should have known before and during Father Boxelaar's sexual abuse of Kevin that such priests and other persons could not be "cured" through treatment or counseling.

61. Upon information and belief, the Carmelites, their agents, servants, and employees, concealed the sexual abuse of children by Father Boxelaar in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the Child Victims Act, despite knowing that Father Boxelaar would continue to molest children.

62. Upon information and belief, the Carmelites, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father Boxelaar would use his position to sexually abuse children, including Kevin.

63. Upon information and belief, the Carmelites, their agents, servants, and employees, disregarded their knowledge that Father Boxelaar would use his position with them to sexually abuse children, including Kevin.

64. Upon information and belief, the Carmelites, their agents, servants, and employees, acted in concert with each other or with Father Boxelaar to conceal the danger that Father Boxelaar posed to children, including Kevin, so that Father Boxelaar could continue serving them despite their knowledge of that danger.

65. Upon information and belief, the Carmelites, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others, including Kevin, and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

66. Upon information and belief, the Carmelites, their agents, servants, and employees, concealed the sexual abuse of children by priests and others in order to conceal their own bad acts

in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

67. By reason of the wrongful acts of the Carmelites as detailed herein, Kevin sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and Kevin has and/or will become obligated to expend sums of money for treatment.

## **VI. CAUSES OF ACTION**

### **A. FIRST CAUSE OF ACTION – NEGLIGENCE**

68. Plaintiff Kevin Dow repeats and re-alleges all of his allegations above and below.

69. The Carmelites had a duty to take reasonable steps to protect plaintiff Kevin Dow, a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

70. The Carmelites also had a duty to take reasonable steps to prevent Father Boxelaar from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including Kevin.

71. The Carmelites were supervising Kevin, and had care, custody, and control of Kevin, when he served as an altar boy and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

72. These circumstances created a special relationship between the Carmelites and Kevin, which imposed a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

73. The Carmelites breached each of the foregoing duties by failing to exercise reasonable care to prevent Father Boxelaar from harming Kevin, including sexually abusing him.

74. In breaching their duties, including hiring, retaining, and failing to supervise Father Boxelaar, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn Kevin, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Kevin and other children who were under their supervision and in their care, custody, and control, the Carmelites created a risk that Kevin would be sexually abused by Father Boxelaar. The Carmelites through their actions and inactions created an environment that placed Kevin in danger of unreasonable risks of harm under the circumstances.

75. In breaching their duties, including hiring, retaining, and failing to supervise Father Boxelaar, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn Kevin, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Kevin and other children who were under their supervision and in their care, custody, and control, the Carmelites acted willfully and with conscious disregard for the need to protect Kevin. The Carmelites through their actions and inactions created an environment that placed Kevin in danger of unreasonable risks of harm under the circumstances.

76. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of Kevin.

77. As a direct and proximate result of the acts and omissions of the Carmelites, Father Boxelaar groomed and sexually abused Kevin, which has caused Kevin to suffer general and special damages as more fully described herein.

**B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

78. Plaintiff Kevin Dow repeats and re-alleges all of his allegations above and below.

79. The Carmelites engaged in reckless, extreme, and outrageous conduct by providing Father Boxelaar with access to children, including plaintiff Kevin Dow, despite knowing that he would likely use his position to groom and to sexually abuse them, including Kevin. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

80. As a result of this reckless, extreme, and outrageous conduct, Father Boxelaar gained access to Kevin and sexually abused him.

81. The Carmelites knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and Kevin did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

**VII. CPLR 1603 – NO APPORTIONMENT OF LIABILITY**

82. Pursuant to CPLR 1603, the foregoing causes of action are exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602,

including but not limited to, CPLR 1602(2), CPLR 1602(5), 1602(7) and 1602(11), thus precluding defendants from limiting their liability by apportioning some portion of liability to any joint tortfeasor.

#### VIII. PRAYER FOR RELIEF

83. The plaintiff demands judgment against the defendants named in his causes of action, together with compensatory and punitive damages to be determined at trial, and the interest, cost and disbursements pursuant to his causes of action, and such other and further relief as the Court deems just and proper.

84. The plaintiff specifically reserves the right to pursue additional causes of action, other than those outlined above, that are supported by the facts pleaded or that may be supported by other facts learned in discovery.

Dated: November 25, 2019

MARSH LAW FIRM PLLC

By 

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